



Office of the Independent Police Auditor

City of San José

AUGUST 1999

<http://www.ci.san-jose.ca.us/ipa/home.html>

VOLUME 8

IPA's AUTHORITY IS EXPANDED TO REVIEW OFFICER INVOLVED SHOOTINGS

Background

One of the recommendations in the Independent Police Auditor's (IPA) 1998 Year End Report was to give the IPA authority to review cases regarding officer involved shootings even when no complaint had been filed.

One of the primary duties of the IPA involves the review of all citizen complaint investigations alleging unnecessary use of force.

Officer involved shootings are the most serious type of force used by San José Police Officers. Whenever this type of incident occurs, there is consternation and questions raised not just by the people immediately affected but also from our city and community leaders, the entire law enforcement community and from the public at large. Interest on how police-work impacts the citizenry is heightened following these incidents. During this time, the IPA receives many inquiries from the media and others looking for some answers or reasons why this happened. There appears to be an inherent expectation from the community that these serious cases will receive an independent review by the IPA.

Problem Statement

The IPA had authority to review cases only when a complaint has been filed. Typically, the injured party or family of the deceased files a civil action instead of a complaint. Attorneys will often counsel their clients not to talk to anyone until after adjudication of their case. Sometime later, a complaint may be filed but by then years have gone by making it more difficult to conduct a thorough investigation. On at least two occasions complaints were filed two years after the incident had occurred. Other than the police officers, most of the civilian witnesses were unavailable. With the passage of time memories wane and physical evidence vanishes. Thus, these cases seem to evade review.

Investigative Process

When a death or injury results from a police shooting, the San José Police and the District Attorney's office conduct an investigation focusing on whether or not there was any criminal

conduct on the part of the officer(s). Once the criminal investigation is completed, the Professional Standards and Conduct Unit (PSCU) will conduct an administrative investigation. An officer may be absolved of criminal wrongdoing but may still be in violation of department policy or procedure.

Statistics

A review of the last six years (1993 through 1998) showed that there were 33 officer involved shootings. Of these, 13 resulted in the death of the suspect and 20 resulted in injury. In the last three years, there have been no citizen complaints filed even though there were 14 officer involved shootings resulting in four deaths and ten injuries.

IPA's Authority is expanded to Review Officer involved Shootings

On August 3, 1999, the Mayor and the City Council unanimously voted to pass an urgency ordinance that expands the IPA's authority to include reviewing officer involved shootings as part of the Police Chief's Officer Involved Shooting Panel.

SJPD's Response

Chief of Police, William M. Lansdowne created an officer involved shooting review panel. The Chief recommended that a city ordinance be amended to grant the IPA the authority to review the investigation of officer involved shooting cases as part of the panel. The panel will determine if any training needs exist or if any changes need to be made to current police policy and procedures.



COMMUNITY OUTREACH

The IPA office has been very active in doing presentations for community organizations, neighborhood and business associations. There has been an increased interest from the community to learn more about the IPA office and police oversight. The public especially wants to be more informed about police involved shootings and profile stops.

These community presentations give the IPA office the opportunity to reach out to the different ethnic groups in San Jose and to learn more about the needs of the community. We often invite the beat officers and the investigators from the Professional Standards and Conduct Unit to meet the public and to answer any specific questions they may have about police policy and procedures.

REQUESTING A PRESENTATION

If your organization or association is interested in having the Police Auditor speak at your next meeting, contact Vilcia Reyes (408) 977-0652. The following is a list of organizations where the IPA made a presentation or participated in community events:

May

Mexican Consulate
MACSA (District 5)
Catholic Charities (District 3)
Community Center Supervisors Meeting

June

Filipino American Heritage Appreciation Project (FAHAP)
Bay Area Islamic Association (District 3)
Alma Youth Center (District 7)
Santa Teresa Neighborhood Association (District 10)
Council Member Diaz' "Community BBQ" (District 5)
East San Jose Community Law Center (District 5)

Catholic Charities Presentation



The Independent Police Auditor Meets With San Jose Community Leaders



July

Business Association of the West San Carlos (District 6)
Story Road Business Association (District 5/7)
Iola Williams Senior Center (District 7)
Town & Country Mobile Homes (District 2)
Mt. Pleasant Neighborhood Association (District 5)
Park McKee Homeowners Association (District 5)
Westside Community Action Team (District 1)







August






Shasta Hanchett Park Neighborhood Association (District 6)
College Park Neighborhood Association (Dist. 6)
Project Crackdown (District 3)
Alum Rock Neighborhood Coalition (District 5)
Council Member Alice Woody's "Day in the Park" (Dist. 8)

REFERRAL SITES

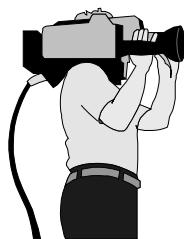
One of the goals for the IPA office this year is to set up referral sites, at least one per district, at locations frequently visited by the public. The goal is to increase the visibility and accessibility to the IPA office. We have seen that a person is more comfortable to file a complaint, if a community organization or community leader refers him/her to our office.

We have had great success with the existing and newly established referral sites. Many complaints have been referred by one of the referral sites. Below is the list of the referral sites.

-  Alma Center - 136 West Alma Avenue
-  Asian Law Alliance - 184 East Jackson Street
-  Billy DeFrank Center - 175 Stockton Avenue
-  Catholic Charities - 645 Wool Creek Drive
-  Council on American Islamic Relations - 3000 Scott Blvd., #104, Santa Clara
-  East San Jose Community Law Center - 1765 Alum Rock

-  Gardner Community Center - 520 West Virginia
-  MACSA - 130 North Jackson Avenue
-  Mexican Consulate - 540 North First Street
-  Sherman Oaks Community Center - 1800 A Fruitdale Avenue
-  South Bay Islamic Association - 325 North Third Street

MEDIA



The Independent Police Auditor was invited to be a guest on television and radio shows such as "The Filipino American Journal," a monthly television program produced by KTSF Channel 26 that addresses issues and concerns in the Filipino/Asian community. Also, "In the Public Eye," a radio show on

KBAY; and KLOK-RadioTri-Color, a Spanish-speaking radio station that addresses issues and concerns in the Hispanic/Latino community.

The Independent Police Auditor has given interviews to Channel 14-Univision, KPIX-Channel 5, KTVU-Channel 2, KRON-Channel 4, KNTV-Channel 11, Channel 48-Telemundo, KBCI-Boise, Idaho, News 12-Connecticut, the Mercury News Newspaper, the East Neighborhood Voice Newspaper, the Press Enterprise Newspaper (Riverside, CA), and the Sacramento Bee.

The TV media has supported the IPA office by producing and airing PSA's (public service announcements). KTSF Channel 26 is currently airing PSA's in Mandarin, Cantonese, Vietnamese, Japanese, Tagalog and English. Channel 14 and 48 have aired information about the IPA office in Spanish.

THE MODEL TO MODEL

The success of the Office of the Independent Police Auditor has caught the eye of many national and international organizations. Organizations, such as Amnesty International (London Office) and Criminal Justice Commission (Australia) have requested materials and information about the IPA office.

The IPA model has been adopted by cities throughout the country. Most recently the city of Sacramento, CA; Boise, ID; and Tucson, AZ established police oversight offices modeled after San Jose's IPA.

In October, the IPA will meet with officials from Riverside to provide them with information about the office. The City of Riverside is in the process of establishing a police oversight office.

COMPLAINTS RECEIVED

There were a total of 326 cases received from January 1 through June 30, 1999. Of 326 cases received, all are classified except three cases. The breakdown is as follows:

Type of Complaints	IPA Intake	PSCU Intake	Total Cases	%
Misconduct complaints initiated by a citizen or by the Chief	35	80	115	35%
Complaints handled by having the supervisor talk to the officer	4	23	27	8%
Complaints alleging dissatisfaction with a policy	2	8	10	3%
Complaints alleging disagreement to a procedure	9	17	26	8%
Complaints in which the complaint was withdrawn	4	3	7	2%
Public contacts immediately resolved to the satisfaction of the complainant	27	111	138	42%
Complaints awaiting classification	3	0	3	1%
Total Cases	84	242	326	100%

SUSTAINED CASES

The following chart depicts 103 misconduct complaints closed from January 1 through June 30, 1999. These cases were either received in the year of 1998 or 1999. Of the 103 cases closed, 29 cases were sustained.

Council District	Closed Cases	Sustained Cases
1 LEZOTTE	4	0
2 POWERS	4	0
3 CHAVEZ	35	7
4 MATTHEWS	6	1
5 DIAZ	6	1
6 FISCALINI	12	5
7 SHIRAKAWA, JR.	9	1
8 WOODY	5	1
9 DIQUISTO	5	1
10 DANDO	1	0
Unknown/Outside City Limit	16	12
Total Cases	103	29

ALLEGATIONS RECEIVED

One-hundred and fifteen misconduct complaints were received January 1 through June 30, 1999 produced 237 allegations. Each complaint can have more than one allegation.

Council Districts	DH	ES	FA	IP	MDP	RC	UA	UC	UF	US	Total	%
1 LEZOTTE	0	0	0	0	1	0	0	0	1	0	2	1%
2 POWERS	0	2	0	1	2	1	1	1	3	2	13	5%
3 CHAVEZ	4	0	0	16	8	10	12	6	27	3	86	36%
4 MATTHEWS	1	0	0	5	2	1	1	0	5	1	16	7%
5 DIAZ	0	1	0	5	2	5	2	0	13	0	28	12%
6 FISCALINI	0	0	0	4	0	0	3	0	7	2	16	7%
7 SHIRAKAWA, JR.	0	0	0	0	3	4	0	1	9	1	18	8%
8 WOODY	0	0	0	1	4	2	0	0	2	0	9	4%
9 DIQUISTO	0	0	0	5	2	2	3	0	9	2	23	10%
10 DANDO	0	0	4	1	0	5	0	0	1	0	11	5%
UNK / OCL	0	0	0	6	2	1	0	5	1	0	15	6%
Total allegations	5	3	4	44	26	31	22	13	78	11	237	100%
%	2%	1%	2%	19%	11%	13%	9%	5%	33%	5%	100%	
Allegation Legend					MDP = Missing/Damaged Property					UC = Unofficerlike Conduct		
DH = Discrimination/Harassment		FA = Failure to Take Action			RC = Rude Conduct					UF = Unnecessary Force		
ES = Excessive Police Service		IP = Improper Procedure			UA = Unlawful Arrest					US = Unlawful Search		

DISCIPLINE IMPOSED

The following table shows 31 disciplines imposed on sworn officers. Please note that this tabulation does not include non-sworn or reserve officers.

Discipline Imposed	
20 Hour Suspension	3
40 Hour Suspension	2
80 Hour Suspension	2
Letter of Reprimand	1
Documented Oral Counseling	9
Counseling and Training	10
Demotions / Transfers	1
Terminations	1
Retired while investigation pending	2
Total Discipline Imposed	31

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We welcome your comments regarding this newsletter!



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**To file a complaint against
a SJPd officer, contact:**

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Independent Police Auditor***

4 N. Second Street, Suite 650

San Jose, CA 95113

Tel (408) 977-0652

Fax (408) 977-1053

Email: Ind_Pol_Aud@ci.sj.ca.us

or visit our website at:

<http://www.ci.san-jose.ca.us/ipa/home.html>

or

**The Professional Standards and
Conduct Unit**

777 N. First Street, Suite 666

San Jose, CA 95112

Tel (408-)277-4094

Please reprint and circulate